IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 727 of 2005

Between:

G. Lakshmi Devi, W/o. G. Narayanappa,
D.C.Palli Vill, Kambadur Mandal, Anantapur District.

..... PETITIONER

AND

The Revenue Divisional Officer, Dharmavaram, Anantapur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue appropriate writ or direction more particularly issue one in nature of Writ of Certiorary calling for the records with regard to and in connection with the proceedings In RC.No.2340/04/F, dt. 24.9.2004, and quash the same and to pass such other or further orders as this Hon'ble Court feels deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: KOTHAPALLI RAM MOHAN CHOWDARY

Counsel for the Respondent : GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The petitioner was appointed as a temporary dealer for the fair price shop at D.C.Palli village, Kambadur Mandal, Anantapur District. The respondent issued a show cause notice-cum-suspension order dated 24-09-2004 suspending the authorisation of the petitioner and directing her to explain as to why further action shall not be taken, on the two allegations indicated therein. The petitioner submitted her explanation. Her complaint is that no orders have been passed so far by the respondent and the continued suspension is an act of political vendetta. Reliance is placed upon the Judgment of this Court in **JOINT COLLECTOR, KURNOOL v A.NEELIMA** as well as the one in **ALIVELAMMA v REVENUE DIVISIONAL OFFICER, DHARMAVARAM, ANANTHAPUR DISTRICT**.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The respondent issued a show cause notice-cum suspension order dated 24-09-2004. The two charges framed against the petitioner are that the petitioner is selling the essential commodities at higher price and that she did not account for 30 quintals of rice under the "food for work programme". In her explanation, the petitioner denied the first allegation. As regards the second allegation, she has enclosed the copies of coupons issued by the Mandal Revenue Officer for 30.15 quintals. More than three months have elapsed since the explanation was submitted.

In A.Neelima's case (1 supra), this Court took the view that the continued

suspension of a dealer beyond three months cannot be sustained, unless extraordinary circumstances exist. It is a matter of record that the show cause notice was issued way back in the month of September, 2004 and that the petitioner submitted her explanation immediately thereafter. No special circumstances are evident from the record, warranting the delay in disposal of the matter. The ratio laid down by this Court in that case, applies to the facts of this case.

Another aspect of the matter is that the authorisation of the petitioner is suspended not as an interim measure, but almost as a substantive penalty. It can be resorted to, only after following the procedure prescribed under Clause 5(4) of the A.P. State Public Distribution System Control Order, 2001. In Alivelamma's case (2 supra), this Court held that any suspension as a measure of penalty without following the said procedure, is unsustainable.

For the foregoing reasons, the order of suspension dated 24-09-2004 passed against the petitioner is set aside and the petitioner shall be entitled to function as a dealer. It shall, however, be open to the respondent to pass appropriate orders, duly taking into account the explanation submitted by the petitioner.

The writ petition is accordingly allowed. No order as to costs.

25-01-2005

Note: Issue C.C. in three days

(B/o)

kdl

To

1 The Revenue Divisional Officer, Dharmavaram, Anantapur District.

2 Two C.Cs. to the G.P. for Civil Supplies, High Court of A.P., Hyderabad, (OUT).

3 Two C.D. Copies.